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DISTRICT OF COLUMBIA

STATEHOOD CONSTITUTIONAL CONVENTION

Public Hearing of the

COMMITTEE ON LOCAL GOVERNMENT,

INTERGOVERNMENTAL RELATIONS AND TRANSITION

10:40 a.m., Tuesday
April 13, 1982

Room 115, District Building
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Attending

MARIE NAHIKIAN, Chairperson, Ward 1

TALMADGE MOORE, Vice Chair, Ward 5

BARBARA MAGUIRE, Ward 2

PHILIP SCHRAG, Ward 3

VICTORIA STREET, Ward 4

WILLIAM BLOUNT, Ward 7

ABSALOM JORDAN, Ward 8

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P R O C E E D I N G S

MS. NAHIKIAN: Good morning, ladies and gentlemen. I would like to call to order the first public hearing of the Committee on Local Government, Intergovernmental Relations and Transition of the District of Columbia Statehood Constitutional Convention.

I would like to briefly introduce the delegates who are members of this Committee.

To my right is Delegate Talmadge Moore, representing Ward 5, who is the Vice-Chair of our Committee; and next to him is Delegate Philip Schrag, representing Ward 3; to the far left, Delegate Absalom Jordan, Ward 8; Delegate William Blount, Ward 7; and, next to me, Delegate Barbara Maguire from Ward 2.

Other members of the Committee, representing other wards, will be joining us during the day.

My name is Marie Nahikian, representing Ward 1, and Chairperson of the Committee on Local Government.

We are very, very pleased to begin our hearings this morning with our own Congressman, Walter E. Fauntroy, who will be speaking to us particularly on issues of the federal interest.

Good morning, Congressman. This is a switch; we

are usually testifying before you--but it's a pleasure to have you.

STATEMENT OF THE HONORABLE WALTER E. FAUNTROY, CONGRESSIONAL DELEGATE FROM THE DISTRICT OF COLUMBIA

MR. FAUNTROY: Thank you so very much, Madame Chairperson, and members of the Committee. I am indeed pleased to have this opportunity to appear before you today to share in this historic moment.

The shaping and drafting of a constitution which will govern the lives of three quarters of a million people who are citizens impacts upon the lives of all Americans and indeed upon distant foreign shores is not an easy undertaking, as you probably know by now. In so doing you, and ultimately all District voters, must be ever mindful of the experience of the past and the attitudes of the present, while maintaining a vision for the future.

Our state constitution must be static, so that citizens will know what the law is, and at the same time it must be a living, breathing document, capable of changing with the change of times.

The issues before this Committee are among the most compelling. I have read and studied with great interest the

draft articles on local government, intergovernmental relations and transition. My remarks will focus on those and related areas. My statement is not intended to urge you in a certain direction with regard to the important questions to which you must respond; I intend only to raise points for consideration as you address those questions.

Representative government in its purest form is most keenly reflected in units of local government. Typically states are sub-divided into counties, cities, and other forms of local government units. The finest divisions emerged during the 1960's and 1970's with the evolution of many city halls, neighborhood governments, local sub-units, and our own Advisory Neighborhood Commissions. These small divisions of government have sought to put the decision-making close to the people, a principle with which few can argue. On the other hand, a more recent trend is towards more active, streamlined, less cumbersome means of government aimed at promoting greater efficiency.

There are several factors which relate to decisions on the look of local government units. Those factors include practicality, cost, and current attitudes--in short, would it work, can we pay for it, and would it receive a favorable vote? The draft article on local government seems to combine

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the task of many current local policy groups into fewer groups. The mission of the neighborhood councils and the ward councils appears to encompass what is now performed by ANC's, service area committees, neighborhood planning councils, and other such bodies.

Whether it will work is difficult to assess. While new, it does seem to combine functions and reduce the size and number of local planning and policy units.

The second question, of course, is can we pay for it? Again, it's a difficult question to answer. The amount of funds mandated for use by Section 3 of the article appears to be identical to the amount mandated for ANC's. However, unlike ANC's, under Section 4, neighborhood council members are to be compensated; in addition, ward councils are authorized to expend appropriated funds under Section 6. It therefore seems logical that if fewer people are doing more things, the demand for greater compensation, of funds for staff and other activities, will be increased.

The third question, of course, is will the proposal receive a favorable vote? Here there are two constituencies that you must be concerned with--the voters of the District and the Members of Congress.

As to District voters, proposals which make sense

and are supported by a good majority of the statehood delegates should meet with little resistance.

As to the Congress, I believe that to gain its support, proposals ought to look as much like systems as Members are accustomed to as possible. Congressional attitudes should be given much attention and careful consideration. Perhaps most important is the elusive concept of federal interest must be taken into account. The concept of the federal interest leads me into the next topic, intergovernmental relations.

If Congress can be made to feel comfortable and secure with this article, much progress will have been made. The boundaries of a state for us have already been established [inaudible] when it created the National Capitol Service Area, or federal enclave, in the Home Rule Act back in 1973. Absent any glaring inequities, it makes sense that those who [tape breaks, a few lines are lost here].

Section 2 of this article is the most critical. I would strongly suggest that much time and attention be devoted to the section and that advise and counsel of Members of Congress be actively and vigorously sought. You should be mindful of the fact that the location of chanceries in the District is currently and has always been a controversial matter

on the Hill. You should also note the keen interest of many Members in public safety in our area and in ensuring that visitors from their states are well-received.

Some interest has also been focused on whether our local laws are [inaudible].

We do not need to let Congress dictate to us, but we do need to keep in mind that the big hurdle in this effort is the Congress.

Section 3 in part states a truism in that no state may tax the federal government; the latter part of this section, however, is critical: the federal payment is an important element in our budget. Loss of the payment could have a major negative impact on our statehood effort.

While several states have large land areas occupied by the federal government--Alaska, for example, 96.4 percent; Nevada, 86.6 percent; Utah, 66.1 percent; and Idaho, 63.7 percent; and several others. And none of these states receive a payment comparable to the federal payment. There are important differences between them and us.

First, the District is land-locked in 67 square miles; total land area of these states is much greater, hence the federal occupation of land has less of an impact. Further, these states do not provide the same kind of service and level

of service to the federal government that the District does. And, finally, there are other types of payments in lieu of taxes which these states receive, and while different from our federal payment achieve the same result.

We would be happy to take it in any form it is provided so long as it is money and it is adequate and predictable.

The third article of the draft on the transition is, for the most part, mechanical in selecting one process over another or one time frame over another, and does not raise the same kind of considerations as those contained in the prior articles.

Section 4, however, does attract my attention. History records that it was during the transition from thirteen colonies to a union of states that those of us who happened to live in the District of Columbia were disenfranchised. We are told by the historians that it was not intentional, that it was an historical oversight in the press of creating a major new government that caused a result that the Founding Fathers had [inaudible] and such sacrifice to overcome, a taxation without representation.

It is fitting, therefore, as we near the day for the annual payment of taxes that we pause and reflect and

make every effort to be doubly sure that we do not make a decision which causes us the pain, the unfairness, the inequality that the decision of 1800 to freeze all laws, including the election laws, has caused.

These are historic hearings and gatherings that you are holding during this period; decisions will be far-reaching. Let's make sure that our sons and daughters, and theirs, are first-class citizens in every respect.

And, Madame Chairperson, I want to thank you for this opportunity to appear before you and present this written testimony. I would be very pleased to respond to any queries that you or any Committee member may wish to tender me at this time.

MS. NAHIKIAN: Thank you very much, Congressman F.untroy. I am going to move to other members, delegates on the Committee, who may have questions.

Delegate Blount?

MR. BLOUNT: Congressman Fauntroy, do I detect by the tone of your testimony that you are saying to the Committee to sort of move in a traditional manner in our article? The reason I ask that question is because I have sort of taken the attitude myself that when I decide on the articles, I am thinking about how the Congress is going to view this,

because obviously if we have a radical type of document, it is not going to have more of a chance of passing.

MR. FAUNTROY: Well, I am not really dealing with the continuum of conservatives and radicals as much as I am with what the Members are familiar with; that is, Members of Congress come from states, and they have grown up in states just as we have grown up in the District of Columbia, at least I grew up in the District of Columbia, learning in elementary school that I am a part of this county and that we have a localgovernment or county executive or we have a judicial system.

I don't think we can go very far wrong in terms of suggesting a form of government that is just like any other state. That's all we said we wanted; we wanted statehood just like everybody else has. And the degree to which we can make it understood as simply statehood, which every other citizen of this country has, I think will be the degree to which we can move the Congress swiftly on it.

MS. NAHIKIAN: Delegate Schrag?

MR. SCHRAG: Delegate Fauntroy, thank you for your very helpful statement.

I would like to ask you whether there are any particular things in this Committee's draft that you would suggest

that we change.

MR. FAUNTROY: Again, I had come vowing not to try to direct you but to raise some of the questions, and I think the reference I made early on to the fact that while we are reducing the number of citizen participation groups, inevitably we are going to have to increase the compensation for the fewer people who will have to take on more responsibility and staff to discharge that responsibility.

For that reason, I would just be careful in laying out the cost benefits. I tend to move toward the more efficient compensated levels of local participation than the voluntary.

MR. SCHRAG: Let me ask you a particular question in that regard. Section 1, Part A, of the first article, local government, we have left two options there, and these options reflect the number of neighborhood districts that would be in [inaudible], either three or four. Each of these neighborhood districts will correspond with a state legislative district--the boundaries will be the same. So this means that we will either, under our draft, have a state legislature of twenty-four members, a unicameral state legislature of twenty-four members, or thirty-two members, and we haven't filled in that blank yet. Which, if either, of

those two numbers would you recommend, a 24-member legislature or a 32-member legislature? Which would be preferable from your perspective?

MR. FAUNTROY: Again, you have asked my opinion. I would think that if we started with a smaller number that it would probably make more smooth a transition from the rather large counties that we now have in terms of eight wards, each represented by a member. I think that if thereafter it appears that greater diversity of representation will be required, it might be then wise to move. I think if you started with 32 and you found that that is too unwieldy, it might be rather difficult to get members to vote themselves out of office.

MS. NAHIKIAN: That's a good point. Delegate Moore?

MR. MOORE: Congressman Fauntroy, I just wanted to speak a bit what Delegate Schrag has indicated. As you know, if we decided to have sixteen members, it would be approximately 40,625 residents that they would represent, and if we had twenty-four members it would be approximately 27,000; if we had thirty-two members, it would be perhaps 20,212.

Now, on those three, could you give us your recommendation as to how many legislators that we should use?

MR. FAUNTROY: Again--and I appreciate your providing me that great a detail, because I was not aware of the breakdown--but I think again, given the options which you are considering, the number of twenty-four, which would be how many?

MR. MOORE: Approximately 27,000. It's about 80,000 people in a ward.

MR. FAUNTROY: I would opt for that, again on the thesis that we are going to make a transition from responsible elected officials up from thirteen to twenty-four, and should in our wisdom we find that needed a greater diversity, I think we could move from that position more easily, and we would probably have the resources to pay those elected to serve better.

MR. MOORE: And my final question, Madame Chairman, is: you indicated something about costs. Could you give me your opinion on the existing structure that we have now in government, that is, the City Council, as to whether you would utilize that system that we presently have? You indicated also that Congress is familiar with the states and what you really have now. Would you comment on that?

MR. FAUNTROY: If you want me to comment on whether or not each of the twenty-four, should you choose that system,

should be compensated at the same level as the ward Council persons?

MR. MOORE: Well, that was part of the question I was talking about, what we could use on the existing structure that we have here in the District?

MR. FAUNTROY: [Inaudible] that it does seem to me, again, that you ought to take a look at relative compensation levels for state legislators, county council persons, and city council persons in terms of the responsibilities that they assume. I have the experience of having served on the first appointed City Council; it was a part-time position, so defined. I am sure that present Council persons are well aware that that job is more than full time, and I think you just have to look at the responsibilities that you are asking people to assume and compensate them, one, in a fashion that they can devote full time to it, and, two, in a fashion that it will attract people to the office and to the responsibility.

So that when I caution the cost, I must also add that you pay for what you get, you get what you pay for in life somehow.

MS. NAHIKIAN: Other delegates have questions? Delegate Maguire

MS. MAGUIRE: I am concerned with the intergovernmental relations article that was written since--I feel that Congress will be looking very closely at that article. And I am wondering if you could give us a little guidance. One of the debates in this Committee is what goes in the constitution and what goes in the Statehood Act, and in looking at this article, do you think it's too inclusive or we haven't included maybe enough? If you can give us some guidance on that, I think it will be real helpful.

MR. FAUNTROY: Yes; let me look at some notes.

MS. NAHIKIAN: Let me just for a moment note for the record that we have been joined by Delegate Victoria Street, representing Ward 4, a member of the Committee.

MR. FAUNTROY: Let me just go through this with you, on the boundaries of the state. Do I understand that you want to leave the specificity of the boundaries to the Congress?

MS. NAHIKIAN: Let me just make a quick comment, Delegate Fauntroy, because that has been a very controversial discussion on our Committee. I am sure that some of the other delegates, specifically Delegate Jordan, may have comments later, but it was a great debate. Do we indicate clearly that we have a federal enclave, or do we actually

specify boundaries in the constitution?

MR. FAUNTROY: May I respond by saying ---

MS. NAHIKIAN: We would appreciate your guidance on this.

MR. FAUNTROY: If you had difficulty arriving at an answer to that question, relax. The Congress mandated in the Home Rule Act that the President shall establish a federal enclave, whereupon Mr. Nixon put his people to work and, after a year's study, concluded: we are sorry, Members of Congress, we cannot define what you requested us to establish, a federal enclave. We said, that's all right--when Mr. Nixon left, let's ask Mr. Ford to do it. Mr. Ford's people went to work; they could not come up with one. Then Mr. Carter became President, and Mr. Carter's people looked at it and simply said forget it, we can't define an enclave.

I would suggest that perhaps, in your best wisdom, you suggest to the Congress what ought to be the enclave, understanding that you simply cannot carve out a self-sufficient federal district. And I think you do take that into account when you, in Article 2, make provision for compacts with other states, with the federal government, foreign governments, and contract with the federal government to provide fire, police, sanitation and other services.

So I would simply suggest you go and carve out a reasonable federal district, including the buildings that you have cited.

I did have one question that should help me a little: Why didnt you include the Potomac River, the bridge costs or something?

MS. NAHIKIAN: If I can respond--other delegates may want to respond--on the advice of several experts who advised us in the drafting process, we determined that (a) the cost of upkeep of the Potomac River, and specifically the bridges, was an issue that more appropriately rested with the federal government.

I don't know if other delegates want to comment.

MR. FAUNTROY: I just wanted to know that. But back to your point. I think it's the better part of wisdom, if I were a member, for you to try to carve out a district, because the President and all his people--four Presidents couldn't do it.

MS. NAHIKIAN: Then we better do it.

MR. FAUNTROY: [Inaudible]

MS. MAGUIRE: And you would define that in the constitution?

MR. FAUNTROY: I would do that. And I would

rationalize it--let me start over again.

When I began reading the boundaries of the state, I was comforted until I got down to "specified by the Congress," and then you went on to be slightly specific to the Congress. Just make a clean statement: the state shall include all the territory of the District of Columbia except that bound by X, X, X, so and so forth, which will remain the federal district--something to that effect, so we don't have to go through Article 1, Section A, today, and you understand how to deal with that; just keep it there, make that the federal district, and then go on to your Section 2 and have the federal government negotiate with our state for services which we may or may not deliver. I am trying to think through to that process and see how it's going to be any different, however, from the negotiations that we now have on the federal payment on federal impact aid, and the like.

But at least we will be in the same position as are the states in negotiating some sort of agreement with the government.

May I ask also with respect to Section 2, do you see the negotiation going on between the governor and the President or the governor and the Congress, the governor and

the executive branch or the governor and the legislative branch?

MS. NAHIKIAN: I am not sure that we have specifically thought that through. Off the top of my head, my response would be the negotiations would happen between the governor and the Congress, but that's a good point. I don't know if other delegates want to respond to that.

Let me just recognize, for purposes of the record, Delegate Hilda Mason, an at-large City Councilman. Delegate Mason, if you would like to add, we would be very happy to have you add to this discussion.

MS. MASON: I am Delegate Mason, delegate at large, and it is my understanding that it was the intent of the law to have some of these problems worked out by the Compact Commission that would be dealing with the federal interest.

MR. FAUNTROY: And that Commission would be made up of ---

MS. MASON: [inaudible]

MS. MAGUIRE: The Compact Commission comes out of a 24-member appointed statehood commission, and the same number of Commission members as federally appointed, so if the federal government appoints six people to work with transition, there would be six people from the Convention's

24 appointed statehood commission, making a total of twelve.

MS. NAHIKIAN: Delegate Street, you have a comment?

MS. STREET: If I may comment on that, Delegate Fauntroy. I would think it would be wise to consider negotiations with Congress with some input from the executive.

MR. FAUNTROY: It might be useful to observe how states like Utah and Wyoming get their payments in lieu of taxes for mineral resources that they are prohibited from developing, and I think those kinds of negotiations go on with the agency of government that has the responsibility, and the contracts agreed upon are reflected in that agency's submission to the Congress for appropriations, and that would certainly take the attention off of the District, as it is all focused now, because you rarely hear any great debate on whether or not Utah is being compensated sufficiently for or upon money made by the government by virtue of leasing rights that they give private developers on land which they prohibit the state from taxing.

That's a fascinating subject, and I really would like to look at that, and maybe that is the best way to diffuse the attention that might be focused on what they are doing, this state, this government, as over against a committee that handled all of it.

If I may just free associate for a few minutes. I am just wondering, if the transportation questions were handled by the Department of Transportation, and if the water and sewage contractor were handled by this Corps of Engineers, and if the police and fire were handled by the Justice Department--as you may note, I am quickly auguring [sic] my way out of that way of dealing with it, so that's why I request the privilege of free associating. I have had considerable experience trying to negotiate relatively small things with various departments of government who end up referring to the White House as a reference for decisions that they make. I had a long running discussion with Attorney General Griffin Bell on the question of the appointment of marshalls to the District of Columbia, and the chief marshall, and whenever we got to a point where we were pushing for a genuine increase in self-determination, reference is always back to the President. When matters of budget were involved, as in our negotiations now for completion of the Metro, the reference is always back to Mr. Stockman and OMB.

So this whole subject, pursuant to Section 2, bears a good bit of thought, and I will myself give that thought, and, if you keep the record open, I will submit some more considered judgments.

MS. NAHIKIAN: That's very helpful. Delegate Jordan?

MR. JORDAN: Congressman Fauntroy, we come a long way. I remember testifying before the Congress, your committee, some years ago, and [inaudible] and you had to come to my defense and help. I appreciate that and I am glad to see you here today.

I just have two questions to ask you. In the question of federal payments, you have made a statement in terms of how you feel we can get it. My only problem has been, as it presently is constituted, federal monies that come to us have strings attached.

Do you foresee any problems with that under the provisions that we have for payments in lieu of taxation?

And the other question is dealing with the boundaries, because I thought about this again this morning--well, this is something that the Committee will have to deal with--but there was a hearing that I was at last night where someone requested that the city be named Potomac, which I thought sounded good, and we are talking about the Potomac River in this new federal enclave--and I don't know how you would name the state after something that is not in your area--but one of our concerns during the discussion on the boundaries of

the state in terms of why you put the Potomac River there is the boundaries haven't been set. The federal government is now in a hearing in the courts over disputed boundaries that deal with the 1791 high water mark on the Maryland side. There was another question that arose about the federal ability to transfer the jurisdiction, the control, over land on that side of the Potomac River, so it wouldn't be clear if we were to use the Potomac River as our boundary that part of that would have to be the boundaries that were established in the 1945 Boundaries Act, and that would create a problem for us, because the Corps of Engineers came out to move the pierhead line--they would change the line of the District of Columbia. So that was some of the discussion there.

But I appreciate your comments about us at least having some minimum boundaries--but could you respond to the point that I made about how we deal with these taxes in lieu of payments? Do you see us continuing to have the kinds of strings attached to them that we practically have?

MR. FAUNTROY: I would hope that the purpose of the Statehood Act would be to free the District of oversight, that whatever federal payment would be an automatic federal

payment with no directions as to how it could be spent. I think, depending upon the degree to which you can be comfortable, that what is now the federal payment can be handled through the various contracts and compacts that will be established. [Inaudible]. In short, let's face it, the basic thing is money, and if we can reach an equitable understanding on what it requires to protect the federal interest by having policemen out at a Trailways station, which may be outside the enclave, or at the 295 [inaudible] District, we can fix and rationalize the federal payment in that way, and much of the federal payment in that way. And that will in fact be designated, but that's no problem so long as you negotiate those contracts, and, of course, if you get the money for fire and police you can't spend it on the streets, if you are going to have fire and police.

But the option to shift funds ought to remain with the state elected government, if you understand what I mean. That is, when I sign a contract to--when a man signs a contract to build my church and I agree to pay him so much, if he decides that he is going to substitute an equally effective material at lower cost so that he can pay for a better quality electrician, that's his option, just so I get good work.

And I don't think the Congress should be overseeing

the expenditures on police and fire, just be satisfied that the service is being provided.

Now, the last question you mentioned on the Potomac, I like that idea [inaudible]; and if we clean it up, we have to pay for it. If it's still under dispute, let the government wrestle with it [inaudible], particularly on the National Airport site, and let us focus our attention on giving service to the people who reside in the District of Columbia.

MS. NAHIKIAN: I would like to ask one question. Congressman Fauntroy, on the article on local government there was a comment that I think you made earlier about how important it was in our drafting to draft something that looked familiar to the Members of Congress.

And, if you note, we have basically--there was a debate in the Committee over what we should call these entities of local government: should they be called wards, because the term "wards" is much more familiar to the people of the District of Columbia? And the concern being that if we called them counties, that that would imply some kind of local legislative control in a way. And our local government proposal, while it may appear to be a three-tiered system with neighborhood districts, a ward council, and then a legislature--in fact, it's only two, because the ward council

is made up of the legislators and the neighborhood representatives, so that while there is a little tier that brings neighborhoods together to deal with the legislature as well as the executive, it's the same people.

But my question is kind of specific in the sense that, do you think that using the term "counties" would look more familiar to Congress, or would there be some concern that in a physical area as small as the District, that trying to set up something that looked like counties to Congressmen would automatically say, look, these people, how are they going to run, you know, what is essentially in their view a city with "counties"? And that is a dilemma that we face there.

MR. FAUNTROY: Let me say that I was comforted by the fact that you did not go to the point of establishing eight counties, with a county executive and a county council, which would then have to relate in a home rule relationship to a state legislature and a state executive. I think that that kind of detail would have been more confusing to Members of the Congress, although very familiar to them in terms of how their states and local governments are structured.

I think the merit of it can be sold on two counts: one, that our thesis is that you can have efficient government

with a lesser number of paid people--we are trying to be efficient, Congress--and that is a selling point which argues for your arrangement just as you have it.

I was troubled by eight wards when I [inaudible] to see eight counties, and since our problem is not so much with people in the District of Columbia as it is with the Congress, I would give consideration to calling them counties, so that Members don't say, you see, we always told you it's nothing but a city, you want to make a city a state. And, Mr. Jordan, next time you say Potomac, say the state of Potomac--you said the city of Potomac. I would like to see "county" for the threshold of Members of Congress to begin to think of state and counties, and just say, well, we make one difference: unlike your counties, which have interminable layers of elected officials who are paid, we have simplified that, as a constructive example of how government may be efficient and less costly.

MS. NAHIKIAN: I think we are going to have to put the Congressman on the Compact Commission.

MR. FAUNTROY: I kind of like that myself. [Inaudible]. It's a county, but with one difference--you know, back home, you know how you think about all your county councilmen who are running after your seat and how if they

didn't have those positions and get that little money, they wouldn't be bothering you; but we have simplified it--we have an efficient type government which may become a model for the nation as to how state governments can be streamlined--let me read my statement, I have a good statement there--and deal with the assistance of people that we have cut back in government; we don't need all of these--we are sending things back to the states, we want to get in the move, we are agreed with Mr. Reagan, although we are not totally agreed with Reagonomics or the [inaudible] as a result of his policies.

MS. NAHIKIAN: Delegate Moore?

MR. MOORE: Congressman, you made a statement here in your statement that we should give much attention and careful consideration to the Congress.

I would like to ask you, do you have any recommendations as to how we can effectively lobby for the passing of this constitution with the Congress? Who we should seek out as being our lobbyists, how we should secure these lobbyists?

MR. FAUNTROY: Let me make two suggestions on that. The first is that you consult with friends of the District of Columbia at this level, at this time, people like Don Edwards, Stew McKinney, on the Republican side. I think those are two examples of persons who are in the Congress who have a genuine

concern for local self-government. Congressman Ron Dellums, Chairman of the District Committee, and key persons of his staff, ought to be consulted at this period.

Now, after we have the Commission's work, I will then begin to talk to people [inaudible] on the specificity, and be in a position to suggest to you who needs to be talked to and why, and who may require that people like Ab Jordan and others make visits to their districts to ask friends to speak to them at election time.

But we are going to remain positive. It's going to be difficult, I must tell you, because the statehood proposal puts together on the opposition side a number of people who, if we picked off the individual ingredients of self-determination, one by one, might find themselves voting with us. I can't imagine any of my colleagues in the metropolitan caucus voting for statehood, because of the bugaboo of the commuter tax, and perhaps at this time it might be useful to begin to lobby among our friends in suburban Maryland and Virginia, to suggest to them that statehood does not necessarily mean a commuter tax, but that if it should come, it won't cost them any more, because it would come out of [inaudible]--they would not be paying in the state of Virginia and Maryland [inaudible].

There are those who are supportive of a commuter tax who have reservations about turning over the judicial system. There are those who are supportive of both commuter tax and judicial system, but who are opposed to an automatic federal payment. And I have been trying to sift them out; I have them pretty much pegged now in my own thinking. But we are going to have to find a way to deal with their objections in a fashion that they can feel comfortable about voting for a package four-fifths of which they may agree with but one-fifth of which they may have problems with.

And I don't want to undertake that until I have in hand the tool and can fashion the rationalizations for support; that is, if you all will keep this system and call them counties, I think we can get David Stockman and the President to say it's a fine system on the county level. And the statehood commission may have given some leadership to many of our states that have been spending a lot of money on elected officials at county levels, by combining, streamlining, making more effective government. If I can sell them on that, then I will say, well, why won't you go along with the federal payment--and the contracting process being one that assures us that the government is not going to give us grief about paying for the fire and police and water and other services

that you cannot deliver within the enclave. That's why I think [inaudible]. Four Presidents couldn't do it, the present Congress is not going to do it. You carve it out, and [inaudible].

MS. MASON: May I add something?

MS. NAHIKIAN: Sure.

MS. MASON: Let me tell the Congressman--Congressional delegation, we have to distinguish between that and the Constitutional Convention delegation, so when you talk about Congressional delegates, Johnny Vaughn [?], your legislative aide, appeared before the legislative branch committee, and I was designated to work with him to help get a list together of people who are going to be working with you, to get that list of people will do lobbying. And I have also met with Congressman Ron Dellums' staff, and they promised to get something to me by the end of the week [inaudible].

MR. FAUNTROY: Yes, I can just about give you about where two-thirds of the Members are in terms of historically where they have reneged, because I have been through it--and they say, well, I will go along with you on this, but I won't go with you on that, I tell you that now.

But that is something I think we can take on after

we make these other complicated decisions as to how to project the statehood question.

MS. NAHIKIAN: Okay, I am going to move to Delegate Schrag, who has two quick questions. I might just note for the record, Congressman Fauntroy, that we are pleased that we will have testifying shortly the Minority Staff Director of the House District Committee, as well as several suburban mayors who will be testifying before this Committee this evening, from Glenarden, Laurel, and Takoma Park on the issue of local government.

And I think that is a good way to begin this process, of this is what we are doing, what do you think of it, before you are at a point of saying this is final.

But I think your comments in that direction were very, very helpful, because I think it's important for us not to be working in a vacuum, so to speak.

Delegate Schrag?

MR. SCHRAG: I just have two quick questions on the boundary issue. We have considered in our Committee doing just what you said, drawing a line, drawing the boundary line, and we gave serious consideration to using the very line that Congress drew when it created the National Capitol Service Area. We had two difficulties with that, and I wonder if you

could address them and tell us if there is a way out. One of them is that the way Congress drew that line, it included in the enclave the Federal Triangle and a number of other federal office buildings, which, although they are not property-tax-producing, might some day, if there were a commuter tax, produce a substantial amount of income tax. And we were concerned that if we accepted those lines we might actually be throwing away a lot of money some day.

The second concern that we had about those lines was, as you may recall from the way the Congress wrote them, Congress didn't just draw a line; it also provided that the streets and sidewalks along the streets where the line was drawn were part of the enclave, so that if we accepted Congress's precise delineation, we would lose not only the territory within the line, we would lose those streets and sidewalks as well.

In view of that, would you recommend that if we accept your suggestion and draw a line, that we use their line or that we draw our own line where we want it, which might have a somewhat smaller enclave than the one that the Congress drew?

MR. FAUNTROY: I would opt for the tightest possible enclave on the basis of the thesis that it is impossible to

carve a federal enclave out of the District of Columbia that could be self-sufficient, so that if you just went around to the Federal Triangle and give us the FBI [inaudible], give us as narrow a triangle--and leave the FBI out, they shouldn't be in the District of Columbia, so that people who work there --make it as tight, and then let's see what we have to do.

MR. SCHRAG: I'm sorry, are you saying make the enclave as small as possible?

MR. FAUNTROY: That's right.

MR. SCHRAG: So that--for example, one possibility ---

MR. FAUNTROY: [Inaudibl]--so that we capture as many bodies as possible in terms of--I mean, all of the Mall, not many people work on the Mall, give them all the Mall, give them all the River--that's right, I like the Potomac--give them all the open space you can and as few buildings where people work as possible, because it is on the basis of that ---

MS. NAHIKIAN: That's extremely helpful.

MR. SCHRAG: Thank you.

MS. NAHIKIAN: One more question. Delegate Jordan?

MR. JORDAN: Again on this boundary point, can I ask your response to this?

One of the concerns I have had in dealing with the question of Pennsylvania Avenue is that every four years the President is sworn in and inaugurated. I think it is going to be difficult--and I would like for you to share your opinion of what my concern is--for the President of the United States to leave his district, to have his parade come through a part of the new state, the state of Potomac or Columbia ---

MR. FAUNTROY: But you have it [inaudible], don't you? You have the ---

MR. JORDAN: No, I am just saying ---

MR. FAUNTROY: Well, give them Pennsylvania Avenue.

MS. NAHIKIAN: What about the District Building, Congressman Fauntroy?

MR. FAUNTROY: We ought to effect a significant transfer--let's see, what do we want for this--well, there are exchanges.

[Laughter]

I think this would be a nice site for another federal building, a building for retired actors, or something, and just let them buy it from us. And I would like to see the District Building--I would like to see our state office building outside the enclave, and for the [inaudible] reason I think the enclave ought to include--well, it's a triangle,

it's a perfect triangle. Go on out--well, that's your problem.

MR. SCHRAG: Well, this is inconsistent with what you said before, because there are lots of bodies in that Federal Triangle.

MR. FAUNTROY: [Inaudible]

MR. SCHRAG: One possibility would be to draw a line along Constitution Avenue along the north boundary of the Mall. An alternate possibility would be to draw it along Pennsylvania Avenue essentially and give the Triangle to the federal government, and there is this trade-off of values there, and I wonder where you come out on it.

MR. FAUNTROY: I think obviously the White House ought to be in the Federal Triangle--I mean, in the enclave.

MR. SCHRAG: That's a given, but that doesn't mean we would have to include the Federal Triangle.

MR. FAUNTROY: No, you want to come up Constitution Avenue and go up 15th Street along the ---

MR. SCHRAG: The real question is if we depart from the National Capitol Service Area boundaries of 1973, are we buying a whole lot of trouble with Congress, or is that such past history that Congress would expect us to come up with some different boundaries ten years later anyway?

MR. FAUNTROY: Your argument could be that four Presidents looked at this and they couldn't do anything with it, and we, the people from the District, who lived here and worked here and are very familiar with the streets, think that this would be better arrangement for the reason that we would relieve the--I am trying to rationalize capturing those people. It's going to be difficult, it's going to be difficult capturing that valuable working force.

MS. NAHIKIAN: Congressman Fauntroy, maybe, if you have some more time to reflect on this, you may actually have some suggestions to make to us as we go back to do a final draft to bring before the Convention.

Let me just say on behalf of the Committee, we are very honored and very pleased to have you, and you have been very, very helpful. You have given us some perspective on issues that we ourselves have tried to address and argued about, and we are pleased that we were able to have you here. Thank you.

MR. FAUNTROY: I want to thank you and members of the Committee, I want to thank my colleague, Mrs. Mason, and I want to thank those who are scheduled to testify after me for being so patient during my long period of testimony.

And I request that you will send a letter to Dr.

Joseph Lowry, president of the Southern Christian Leadership Conference, and explain to him why I am fifteen minutes late to his press conference.

[Laughter]

MS. NAHIKIAN: Congressman Fauntroy, we would be pleased to do that.

MR. FAUNTROY: Thank you.

MS. NAHIKIAN: Thank you.

end of Convention's tape

MS. NAHIKIAN: The next witness before the Committee on Local Government, Intergovernmental Relations, and Transition is Mr. John Parsons, who is the Associate Regional Director for Land Use Coordination from the National Park Service. And, Mr. Parsons, we are very pleased to have you here, and let you move forward.

We have a copy of your statement. Thank you for coming.

STATEMENT OF JOHN PARSONS, ASSOCIATE REGIONAL DIRECTOR, LAND USE COORDINATION, NATIONAL PARK SERVICE

MR. PARSONS: Thank you. Good morning, Madame Chairman and Delegates of the Committee. I am pleased to be here today to discuss the role of the Park Service in the District of Columbia.

The National Park Service is an agency of the Department of Interior; it manages approximately 6500 acres of federal lands within the District and an additional 40,000 acres of land in the surrounding National Capitol Region. I should point out, you do have a map here on the wall which was prepared by staff, I guess. I have brought with me, and will provide for the record, a map which we call Map A of the parkland, shown in green, under our jurisdiction. There

seems to be consistency between the two, with one exception, and that is Columbia Island, which is in the District of Columbia along the Potomac River.

But generally the diagrams seem to be consistent.

As a result of the management of these lands, the Congress has identified the need for Interior Department representation on a number of commissions. First, the Secretary of Interior is a member of the National Capitol Planning Commission, and we have enjoyed the 55-year relationship we have had with this organization throughout the development of the park system in and around the nation's capital.

Second, the Director of the Park Service, or his predecessor, has been a member of the District of Columbia Zoning Commission since 1920. This is a role which we feel is helpful to our relationships with the District in that we have been able to lend our expertise to the zoning process, and have ensured protection of these valuable parklands.

Third, the Secretary of Interior is a member of the board of the Pennsylvania Avenue Development Corporation which, as you know, is in the process of redeveloping the Pennsylvania Avenue area.

The District of Columbia Recreation Board was created by Public Law 532 in 1942, and had seven members, including

the Regional Director of the National Park Service. Pursuant to the above Act, through an agreement, the National Park Service assisted the District of Columbia in park planning, supervision of construction of recreation projects, and in some of its maintenance activities. The Board's activities were assumed by the District of Columbia Department of Recreation in 1972, Pursuant to the 1968 comprehensive plan of the National Capitol Planning Commission, the National Park Service transferred 257 individual park areas, totalling 736 acres, to the District of Columbia which were determined to be serving a local function. Of these, seventy-nine playgrounds were transferred to the Department of Recreation, and the remaining 178 reservations were transferred to the Departments of General Services and Transportation.

Further, the Department has assisted the District of Columbia in its grant program since 1965. The land and water conservation fund, which is used for the development of local recreational facilities, has resulted in approximately $12 million in grants. The historic preservation fund has resulted in approximately $2.5 million in grants to public and private projects in the District of Columbia. The urban parks and recreation recovery program has generated nearly $1.5 million to the city.

With respect to law enforcement, this function of the National Park Service is carried out by our United States Park Police, yet, because of the nature of our responsibility, which requires close cooperation with other law enforcement agencies, we have developed vital working relationships with the Metropolitan Police force, the federal enforcement agencies, tne Secret Service, and its uniformed division, the Capitol Police and the county and municipal police departments in the greater Metropolitan Washington area.

We also have the capacity to respond to the Washington area law enforcement system and tne National Crime Information Center. It should be noted, too, that our U. S. Park Police and the Metropolitan Police force presently have concurrent jurisdiction in the city.

In July of 1971 a memorandum of understanding was formally initiated between the D. C. Metropolitan Police Department and the U. S. Park Police concerning law enforcement during large public gatherings and public emergencies in the central city.

Included is advance planning, command of joint forces, liaison officers, and an emergency assembly area. Our U. S. Park Police have two helicopters to provide surveillance services, assistance at accident scenes and the

highways and rivers, and emergency services at crime scenes. These vehicles and their personnel respond to requests by the D. C. Police Department.

Yesterday, we received a copy of this Committee's draft proposal. We did not have sufficient time to develop a response to this material, and we would therefore suggest that the record be left open to provide the opportunity to comment.

Thank you. That concludes my prepared statement. I would be delighted to answer any questions you might have.

MS. NAHIKIAN: Thank you, Mr. Parsons. Let me just note, for your information, that we will leave the record open and would appreciate any comments that the Park Service may have about the draft proposal.

Let me see if other delegates, my colleagues, have questions at this point. I have a couple, but let me go to my colleagues first.

Questions? Mr. Parsons, one of the questions I want to ask is, in our proposal--you have heard the benefit of our discussion earlier with Congressman Fauntroy about the issue of the Potomac River, over which the Park Service does have some jurisdiction obviously, and I am just wondering if you have any kind of initial reaction to that

discussion, because it has been one that we have debated both from the cost side as well as Delegate Jordan's explanation about the current litigation over, you know, the border line and the high water mark and exactly where that all falls in. I don't know if you have any initial reaction.

MR. PARSONS: Well, when the state of Maryland was created, unlike most rivers, the Potomac River is under the jurisdiction of the state of Maryland to the southern shore. Most traditional boundaries are to the thread or the center line of the stream, so when the District of Columbia was cut out of the state of Maryland, the Potomac River--well, excuse me, of course they took Virginia as well, they took a portion of Virginia--but in the retrocession of the Virginia portion of the District of Columbia in 1842, that portion that was in the state of Maryland still remained in the District of Columbia; hence, the District of Columbia extends to what the state of Maryland had initially or originally, and that was the black line you see there on the map.

The only area in dispute now--well, I should state at that point then, the bed of the Potomac River at that point became federal property; it is now under the jurisdiction of the Interior Department. The surface is patrolled and controlled by the Metropolitan police force; the bed of

the river is under our jurisdiction.

The only dispute, then, is the area in Alexandria. We have been in litigation since 1973 on this matter, through the Justice Department. We are currently in a state of settlement with the numerous land owners along that shore line. And I would hesitate to predict, but we feel that within the next two years the entire matter of jurisdiction in Alexandria will be resolved.

MS. NAHIKIAN: That's helpful. I have one other comment, and that is that your testimony also pointed out another fact that we have wrestled with, and that is that currently in the District of Columbia, the U. S. Park Police and the Metropolitan Police have concurrent jurisdiction, but there have been some kind of agreements between the two, I would assume, over who does what basically, although technically speaking, if you can explain, technically speaking if a bank robbery happened, obviously the Metropolitan Police would respond, but if there were Park Police in that area, would they also respond, based on this issue of concurrent jurisdiction?

MR. PARSONS: Yes. If we were for some reason proceeding in one of our cruisers down K Street and somebody ran out of a bank and a hold-up was obviously in progress and

the Park Police were there, they would respond, as they would in a home in Cleveland Park. But during that response they would call the Metropolitan Police Department to back them up and conduct the investigation, etcetera.

MS. NAHIKIAN: Delegate Jordan?

MR. JORDAN: Yes, I wanted to pursue this question about the boundaries just one moment. The line that we see on the map was not the 1791 high water mark, because you have National Airport there, which is all filled land. This shows the boundary line that comes as a result of the Boundaries Act of 1945.

MR. PARSONS: That's correct.

MR. JORDAN: But what I would like to do is just have you respond to this thought: you raise a question about jurisdiction, and we both agree I guess initially that the jurisdiction--I mean this land jurisdiction was in Maryland that's in dispute, and that in some respects the federal government has transferred jurisdiction from one state to another; that is, it has transferred jurisdiction of land which was ceded to the federal government that was initially in Maryland to the state of Virginia, the jurisdiction of that land.

And I wanted to find out if you saw any problem in

terms of that as avoiding constitutional questions with respect to transferring the land that is now presently in the District of Columbia to the new state of whatever?

MR. PARSONS: Potomac.

MS. NAHIKIAN: Anacostia.

MR. JORDAN: Whatever.

MR. PARSONS: That might be your most pleasant job, finding a name.

I would really rather defer to my colleagues in the Justice Department on that issue. I don't feel equipped to answer it. I hear what you are saying, and the Justice Department are the ones on behalf of the federal government who are trying this case, and if you need that we can provide an answer for the record.

MR. JORDAN: I talked to Mr. Droud, is it?

MR. PARSONS: Droud, Jim Droud, he is our attorney.

MR. JORDAN: And he gave me some information on that, but I was just wondering if you had an opinion yourself on it in terms of the transfer of the land from one jurisdiction to another. It didn't seem like it was a problem to transfer from Maryland to Virginia. I am saying taking that example to its logical extension, it shouldn't be a problem to transfer from the District, or from the federal government

to the new state.

MR. PARSONS: Are you talking about the fast lands in Alexandria or the entire bed of the river?

MR. JORDAN: No, I am talking about--there were some lands that were included in the District as a result of the 1791 high water mark.

MR. PARSONS: That's correct.

MR. JORDAN: Let's give you a good example. The best example is National Airport, because National Airport was clearly non-existent, and it is now within the jurisdiction of Virginia. We don't even have to get down to disputed lands that exist to the west of the pierhead line, but, you know, I am just looking at National Airport, and it's all filled land.

MR. PARSONS: Oh, yes, it is. And I can't recall whether that's an executive order or an Act of Congress that did that.

MR. JORDAN: 1945 Boundaries Act.

MS. NAHIKIAN: Delegate Moore?

MR. T. MOORE: Mr. Parsons, I see in your statement where the Commission have enjoyed fifty-five years of relationship, the NPC. And I am just concerned--I know it was set up more or less to protect the federal interest, and could

you comment on how we are going to work with that as a state, the interest and so on?

MR. PARSONS: In that the NPC is a federal agency?

MR. T..MOORE: Yes. Would that be working in conjunction with the enclave also, protecting the federal interest?

MR. PARSONS: That is a very difficult question, because the Planning Commission--one of the major functions is to coordinate the planning of federal establishments or federal properties throughout the entire region; that is one of their main functions.

Whether that function would continue, I don't know. There isn't a--you know, the relationships under home rule we are still struggling with, because of the comprehensive planning aspect of the Commission's role. We are working in constant--constantly with Jim Gibson and his people to try to develop local and federal elements of the comprehensive plan.

How that would relate to a state I don't know, but, as a federal agent, their function and role as coordinating the federal agencies is extremely valuable to the federal government. I guess they are more seen or become more controversial when they get out and participate in what some people

feel are more local planning issues, and the Commission, as you may know, is under some form of a scrutiny and attack because of their participation with local jurisdictions, where their other functions are so important to the federal government that maybe this one has been blown out of proportion; in my estimation, it has, anyway. Maybe I am too close to it; I've sat on the Commission since 1977.

MS. NAHIKIAN: At the same time, though, I think that your testimony indicates that whatever the configuration is that we deal with in terms of transition and the whole issue of intergovernmental relations, because of the issues of the federal interest, which can range from design of a building on the Mall to height of building, that some kind of relationship between the state government and an entity that may or may not be the NCPC would have to continue with the federal agencies; there would have to be some point of coordination there within the federal agencies.

MR. PARSONS: I guess I have had this question since I walked in the room, so I will ask you. By the establishment of some kind of district or enclave, do you mean that something such as Rock Creek Park would become a state park, that the federal government would only manage those properties within the enclave?

MS. NAHIKIAN: No, I don't think we mean that at all.

MR. PARSONS: If that was the case, then you would be dealing with the director of the enclave, or the federal district. Certainly, then, if you don't mean to take on all the major properties, like the Soldiers' Home, the Zoo, and Rock Creek Park, then you would need the liaison that the Planning Commission would provide, I think.

MS. NAHIKIAN: No, I think in our thinking obviously Rock Creek Park or the Zoo or other institutions would remain federally managed and controlled, etcetera. We are not talking about building housing in Rock Creek Park. I don't think any of us on this Committee have even thought anything other than the control would remain where it is now.

Delegate Street?

MS. STREET: I think we would all be happier, we would all be able to resolve many issues, if we would think of federal enclaves as not being restrictive, but think of it as a flexible kind of thing, so that those buildings that are close enough to go with the Capitol, the White House, and the Supreme Court, the Library of Congress--true, we can draw a line and a circle around those. But let's look at Rock Creek Park, which stands out. If you look at the map, every blue area throughout the city could be considered an extension of

the federal enclave, and we shouldn't think of it in a restrictive sense.

And I think that is part of our problem. We think it's got to be one little circle. But, no--just as we have in identifying commercial property, there are some streets that are commercial, first commercial, but then we have spot commercial properties throughout the city where the entire block might be some type of residential arrangement, but on the corner there's a store--there is one commercial spot.

And I would hope that we would think in terms of a flexible federal enclave, so that wherever that land exists that belongs to the federal government, they will have a management for that particular area.

MR. PARSONS: I'm pleased to hear that, because, as representative of the National Park Service, rather than the city park system--there are 330 parks in the national park system nationwide, and your taxes go to paying for the Grand Canyon, and those who live in Phoenix, Arizona's taxes go to paying for the parklands that we all enjoy here. And in 1968, when the Planning Commission undertook its comprehensive plan, we identified many parks, as I had in my testimony, that served purely a local function, and they were transferred to the District along with operating dollars to support them.

And basically the concept evolved is this, that the shorelines of the Potomac and Anacostia Rivers were in the national interest, that is, it was as important as Grand Canyon, as is the Mall and the downtown memorial parks--Dupont Circle, the basic circles and squares--as well as fort circle parks which rings the city with the various fortifications that defended the city during the Civil War and the major stream valleys, such as Rock Creek, Glover Archibald, and so forth. That was fairly well established; it's only had the test of some fifteen years that the comprehensive plan identified those.

But the Planning Commission and OPD, we are now going through a federal element of the comprehensive plan that will deal with open space and recreation, and we are going to rethink those things and take another look at what is in the federal interest. That should be available in October in some draft form.

MS. NAHIKIAN: The other thing that I might just note for the record that would be helpful for us is if there is any kind of historical kind of record of the deliberations that went on when certain parks were transferred to the jurisdiction of the District and the Commission made its decision that--whatever their thought processes were in determining that X park on X street was in fact more in the

local interest than in the federal interest--that would be, I think, helpful to this Committee as we moved to final drafts.

MR. PARSONS: I would be glad to provide that. It was fairly simple. As I mentioned in my testimony, the Park Service had assisted through an agreement with the District--there was a board established, and so forth. We designed and constructed, with federal funds, Congressionally appropriated funds, most of the recreation centers that you now see in town. They were then managed by the D. C. Recreation Department, the Department of Recreation. And those seventy-nine playgrounds that we built were obviously serving a purely local residential function. So those were pretty simple.

The rest were the outlying triangles that we had managed on many of the streets and so forth, and I think a map very quickly shows you--I don't have one, this is what we own now, not what the District of Columbia presently holds. But I would be glad to provide whatever we have on that for you.

MS. NAHIKIAN: That would be helpful. Delegate Schrag?

MR. SCHRAG: Do you see any need for our constitution, either in its substantive provisions or its transition

provisions, to mention the National Capitol Planning Commission at all? Can whatever arrangements that are involved with respect to the Commission be deferred for the Statehood Admissions Act, or is there anything that we need to say as a constitutional matter, particularly in our transition provisions, about that Commission?

MR. PARSONS: I really have difficulty responding to that because I don't know the ramifications of it.

MR. SCHRAG: Let me start one step earlier. With respect to the Zoning Commission, it somehow seems inconsistent with the concept of state sovereignty to have a transition to become a state and still have a federal official as a member of our state zoning commission.

So it would seem that it follows logically that we should, as a matter of the transition, in our constitution provide that the zoning commission shall continue but without its federal member or members. The National Capitol Planning Commission, by contrast, is a federal agency.

MR. PARSONS: Yes.

MR. SCHRAG: It's sort of the opposite of the Zoning Commission; it's a federal agency with some District members instead of being a District agency with some federal members.

Does it follow from that that, unlike the Zoning

commission, we can ignore it in our constitution, whereas I think we can't ignore what to do with the federal member of the Zoning Commission in our constitution.

MR. PARSONS: Yes, I notice that you eliminated me from the Zoning Commission. I serve for the Director of the Park Service.

I guess it would depend on the autonomy you plan to give the state for planning. The current composition of the Planning Commission provides for a good balance, I think, of federal and local participation. If you are going to change the relationships set up under home rule, which I assume you are in the autonomy of planning and what they can and cannot do, yes, I would think you would have to mention that, because you are going to most likely change the composition. If it's purely a federal coordinating body, or something, you are going to have to deal with it.

MR. SCHRAG: Well, my question is, does it have to be dealt with in the constitution? Since the Planning Commission is a creature of federal law, is or isn't it reasonable to say that the place to change its composition or its duties, if they are going to be changed, is in the Statehood Admissions Act, which would be federal law, and not in the constitution, which would be state law, and then we would

follow that up by cleaning up our state legislation when we found out what the federal Admissions Act said.

MR. PARSONS: Seems reasonable to me, but you are so far ahead of me; I mean, I haven't given any of these matters any thought as to how you are going to proceed through a process.

MS. NAHIKIAN: Other delegates have questions? Mr. Parsons, thank you, once again, and we may be back--oh, excuse me, Delegate Mason?

MS. MASON: Madame Chairman, do you encourage him to submit something in writing, if he has second thoughts?

MS. NAHIKIAN: Let Delegate Mason's comment speak for the Committee, because we certainly would be very interested in seeing,if there are reactions to the draft, submission of further comments in writing, and I just want to say thank you for being so helpful, and we may be back in touch with you as we wrestle with some of these thorny issues.

MR. PARSONS: Thank you, and good luck.

MS. NAHIKIAN: Thank you. Our next witness was scheduledto have been Mr. John Gnorski, Minority Staff Director for the House District Committee, but Mr. Gnorski has indicated to us that he will not be able to attend this morning due to some pressing matters on Capitol Hill, so I

would like to call Mr. Tom Regan, Executive Director of the Pennsylvania Avenue Development Corporation.

Mr. Regan, thank you very much for joining us, and we will be glad to hear from you.

STATEMENT OF TOM REGAN, EXECUTIVE DIRECTOR, PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

MR. REGAN: Thank you, Madame Chairman, for scheduling some time for us to talk to you and the members of your Committee. The Chairman of our board of directors, Max Berry, asked me to extend to you also his greetings today and to wish you the best of luck in your endeavor.

The Pennsylvania Avenue Development Corporation was created by an Act of Congress in 1972. It is the outgrowth of at least two prior commissions, Presidential commissions, that basically had their genesis in 1963 under President Kennedy.

The general plan for the Corporation was prepared and approved by Congress in 1975. The 1972 legislation provided for the establishment of the Corporation and directed that the Corporation would prepare a plan for the area under its jurisdiction. As I said, that plan was completed by the Corporation in '74 and approved by Congress in '75.

The significant aspect of that plan is that it was prepared in conjunction with most of, if not all, the agencies that you will be hearing from in your testimony today, and, of course, the multitude of citizen groups also.

The plan, then, to the best of our judgment, reflects a cross-section of thought as to exactly what it is the Corporation is supposed to do.

In 1977--from 1975 to 1977, the momentum of the Corporation was slowed somewhat in that we did not receive operational funding. It was in 1977 that operational funding was first made available to us, and in 1978 we began our operational work. The results of the last four years are shown most dramatically here in the area west of 13th Street, the two parks--Pershing Park and Western Plaza--were created and constructed by the Corporation, and we now have under way the development around the National Theater building and are very hopeful now that our recent progress on the Willard will show substantial construction before the end of the year on the renovation of the Willard Hotel.

The basic legislation that was approved by Congress in 1972 for the Corporation required that the Corporation comply in all respects with the laws and regulations of local jurisdictions, primarily, of course, being the District of

Columbia. The only exception to that is where there would be an express objection or an expressed contradiction to an existing regulation in our 1974 plan. In all other respects, we comply with zoning and every other departmental regulation of the District of Columbia.

Our governing body is a board of directors which consists of twenty-two members. The board has fifteen voting members and seven members who are advisory in nature. Of the fifteen voting members, eight are appointed from the private sector and seven hold appointments as ex officio members. Of the voting members, the Mayor of the District of Columbia is a member, as is the Chairman of the District of Columbia Council.

The advisory members consist of individuals who represent public agencies who would have some interest in the development of Pennsylvania Avenue. These are individuals such as the Architect of the Capitol, the Chairman of the Redevelopment Land Agency, and the Chairman of the National Capitol Planning Commission, the Chairman of the Fine Arts Commission.

The size of the Pennsylvania Avenue Development Corporation is somewhat different, say, from the National Park Service. We have 110 acres which fall under the control

of our 1972 legislation. That breaks down into approximately --into exactly twenty-two of the city squares within the District of Columbia. On the map which you show here, that appears to be an accurate description of our boundary. Basically, our boundary on the south side extends to the building line of the Federal Triangle, on the north side we generally extend to the building line on the north side of the street one block north of the Avenue. It might seem a little confusing, but in the 14th Street area, for instance, our building line goes one block north of the Avenue to F Street and our jurisdiction extends to the building line on the north side of that street; for instance, in the Garfinckel's area, our jurisdiction would go to the building line of the Garfinckel's building, meaning that that sidewalk in front of Garfinckel's would be in our jurisdiction.

The exception to the one block north of the Avenue occurs in the area between 7th and 9th Streets, where our jurisdiction extends to the building line of the Portrait Gallery, roughly to the north side of the streets where people enclave.

MS. NAHIKIAN: So let me interject, that's one block--that would be like to the north side of E Street rather than F.

MR. REGAN: That's correct, in the area between 12th and 13th Streets we would go to the north side of E Street, that's correct.

Our present plans call for us to be finished with the total 1974 plan in 1992, and in fact our legislation contains a sunset provision that would see the Corporation going out of existence in 1992. We are currently on a schedule that would call for us to be completed maybe a year or two before that, although current economic conditions or even future economic conditions and budget support could extend it to the 1992 mandated deadline.

Just to give you an example of the size of our organization, as I said we are governed by a board of twenty-two people; we have a staff currently of forty-two; our annual appropriations amount to about $30 million a year. To date we have committed development amounting to about $700 million, and anticipate the total development of the twenty-two squares to be valued in excess of $1.5 billion.

Now, as to jurisdictional issues, within the 110 acres provided for in our legislation, we have a mix of current jurisdiction parties. The District of Columbia, of course, has much area within our jurisdiction, primarily in the streets and sidewalks. The National Park Service also

has enclaves within our jurisdiction. For instance, the Pulaski Park in front of the National Theater; if you recall, several years ago there was a separate reservation there that was dedicated to General Pulaski. When we built Western Plaza, that reservation became a part of Western Plaza. Currently the jurisdiction on Western Plaza is mixed: the Pennsylvania Avenue still exists on paper and the Pulaski reservation still exists on paper. Ultimately that jurisdiction will be transferred to the Park Service.

The General Services Administration has also jurisdiction within our area, primarily on the south side of the Avenue, along the Federal Triangle.

We have been working diligently both with the District of Columbia and the Park Service and GSA to resolve the ultimate disposition of all of the public spaces within our jurisdiction. The resolution that we appear to be heading for is one that would follow the following general provisions.

Number one, the open space--the parks, the plazas, and the sidewalk areas--would be transferred to the jurisdiction of the National Park Service. Number two, the D. C. government, basically in the form of the D. C. Department of Transportation, would retain jurisdiction over the streets

and over all traffic control facilities necessary to operate the streets.

The General Services Administration has agreed that they would relinquish all rights to jurisdiction along the south side of the Avenue within the area of our control.

MS. STREET: In this plan is Pennsylvania Avenue extended to include that block of E Street that is west of 13th in front of the National Theater?

MR. REGAN: Yes, it does.

MS. STREET: Because I noticed that new building there has the address of 1301 Pennsylvania Avenue, and it was formerly E Street.

MR. REGAN: That's correct; to the best of my knowledge, it is still E Street.

MS. STREET: But the building has a Pennsylvania Avenue address. How did you resolve that?

MR. REGAN: It is our intention to request formally a name change from the City Council to name both of the blocks that surround Western Plaza Pennsylvania Avenue, between 13th and 14th. There was an initiative to that effect about a year ago-- I don't know where it got in Council; I think it went to committee and didn't come out of committee--to accomplish just that. It is premature now to do that, and

we are not in a position to initiate such an action right now, simply because we have a whole host of other elements that we have undergoing.

One other item I wanted to touch before I addressed general questions has to do with exactly what it is our plan involves. The plan is a very complex document which I had not brought with me today, but I should have provided copies for you, and I will be glad to provide them to you. Basically, though, the plan is quite simple in that it envisions the Corporation doing two things. Number one, it envisions the Corporation upgrading the main street of the nation, the ceremonial parade route, the route of the Presidents--and that is Pennsylvania Avenue between 3rd and 15th Streets. That upgrading is described relatively precisely in the plan, and it provides for much of the facilities which you now see in place between 13th and 15th Streets--wider sidewalks, the introduction of many more trees into the environment, adequate pedestrian and vehicular lighting, and a whole array of pedestrian street furniture that would encourage people to use the Avenue, especially after the normal working hours.

We have also included in that sector of our work, which we call our public improvement program, a complete rebuilding of the Avenue itself, and much of the

inconvenience that our residents have suffered over the last few years is due to the Corporation; it is our conviction, though, that it is a necessary improvement to do right now, because the Avenue has not been improved in its entire existence, as far as we know, and it is essential that all of the utilities and supporting structure for the roadway be rebuilt if the Avenue is to function as this draw for pedestrian activity that we hope to be able to provide in the future.

The second aspect of what we do is to control the development that is to occur on these twenty-two city squares --basically the squares north of the Avenue. Our plan envisions an area west of the FBI to be the area of the higher density commercial or office development. We have also envisioned in that area at least two major hotel structures. Examples of these, for instance, would be the development around the National Theater, where the Marriott Corporation is building with Quadrangle Development Corporation the 800-room Flagship Hotel for the Marriott chain, a substantial office building, a very substantial retail mall approaching about 130,000 square feet, and, of course, renovating in place the National Theater. The Willard Hotel will also be redeveloped, and, of course, we have the Cabot, Cabot & Forbes building at 1201 Pennsylvania, and the soon-to-come development

by Cadillac Fairview at Lincoln Square, which is 1001 Pennsylvania Avenue.

In the area west of the FBI we have a very unique mixed-use area where we want to introduce a substantial housing component along Pennsylvania Avenue. This would take the form of a much lower density than we have in the western area, the introduction of a significant number of housing units to make it an area where we could say we have the critical mass that would cause people to want to live in the area, and then selected retail that would support the bringing people into that area during the hours after the normal business office hours.

Also in the eastern area would be the necessary office building in order to provide employment and the increased revenues from the wage taxes and the real estate taxes. In that area we have several proposals already, the largest of which is a proposal by the Westminster Investing Corporation for a mixed-use project at the corner of 6th and Pennsylvania, between 6th and 7th and the Avenue and Indian Avenue. This project would contain approximately 200 housing units, a 350-room hotel, and several hundred thousand square feet of office space.

So that is generally the effort that we are after,

the development effort that we undertake ourselves, our public improvements program, and then development which we control--hopefully we try to encourage developers to come in and invest their money, use their professional talent, their contractors in order to provide new facilities for both construction--temporary construction jobs and then also long-term jobs for District residents.

That's the end of my prepared statement. I will be glad to answer any questions that you might have.

MS. NAHIKIAN: Okay, let me just ask you for the record if it would be possible for you to submit some kind of written statement in the future for the record.

MR. REGAN: Sure.

MS. NAHIKIAN: That way you will be a part of the historical document and we have that for the record.

Delegate Moore?

MR. MOORE: Mr. Regan, are you familiar with the Office of Planning and Development--I think it comes under the Mayor's ---

MR. REGAN: Yes, I am.

MR. MOORE: They are projecting the next twenty or thirty years of the downtown improvement. I was wondering whether--is this a conflict of interest, or are you working

together--or how does that work?

MR. REGAN: We are. As a matter of fact, the Mayor's appointed representative on our board of directors is Mr. Jim. Gibson, the director of the Office of Planning and Development. We work on the Mayor's downtown task force side by side with OPD in order to ensure that those elements of the OPD plan that are within our jurisdictional area reflect the best planning on both of the agencies. I don't recall any instances where we have had a major dispute where we have not been able to reconcile as that plan moves forward.

So I am confident in saying that we feel we have coordinated well, and, in my opinion, if you were to address that question to OPD, you would get the same response.

MS. NAHIKIAN: Other delegates? I have two quick questions. One is, as you have indicated, there are plans within the plan for Pennsylvania Avenue to develop housing at that far end of the Avenue towards 6th Street. And our addressing the issue of boundaries of the federal enclave, one of the issues that then arises, because Pennsylvania Avenue is such an integral part of the enclave and what would be the federal district under constitutional issues--how would you see us--I mean, we have housing on the Avenue, it's

a question of where these folks have residencies. We might deny them the same thing we have been denied, you know, for all these years, of actually having a place to--I mean, how can you be a resident of the federal enclave? I am just wondering if you have any comments on that. I mean, how many units of housing are we talking about here? 200?

MR. REGAN: Well, 200 in the first project. Right now our plan--the '74 plan provides for up to 1500 housing units, and we are currently studying that section of the plan, and our board will be taking firm action on that number later this summer, but it does appear that there will be substantially more than--I say it would be close to that 1500 number. The 200 represents this first project.

Well, to answer that question, we received your written statement yesterday and, like the Park Service, we would like to have some time to respond to that--we certainly couldn't today. But I did read the portion there that deals with boundaries.

First of all, in some ways we make things easier for anybody who would come later on and have to deal with the question of jurisdiction, because what we will do when we complete our task would be to have clarified--would be not to have introduced a new entity into the overall process. We

hope to be able to go out of existence and have Interior and the D. C. government agree on exactly what aspects of our work they would assume control over, so that whatever this Committee or any other committee would finally resolve to do with this larger question of these much larger properties, it would then apply to whatever jurisdictional agreements we had worked out between the city and the National Park Service.

As far as the residences, we envision the development of those parcels to occur in the private sector on lands held in private ownership and developed by developers using private funding. So I think the issue of whether or not a residence would be in the federal enclave might be moot simply because it would be developed on private land, and, however that enclase were drawn--if it were flexible, as you had stated, it possibly would not include the area that we would set aside for development of the housing.

MS. NAHIKIAN: One other quick question. You have indicated that PADC has Congressional mandate to exist until 1992.

Now, with every positive hope that our constitution would move forward prior to 1992, the question becomes--and you may want to address this later in responding to our Committee draft further out, how would you view the issue of

transition and what kind--and given the temporary nature of PADC, is there really a need to address the issue of transition for the continued existence of or changes of the PADC in the constitution, or is that something that could be left largely to be negotiated in the Admissions Act over how these compacts and jurisdictions would continue?

MR. REGAN: I think the answer that I would give to that question would be to beg it right now, simply because I just don't understand that process either that you would have to go through in forming your constitution and in the ultimate Admissions Act.

I could say, maybe as a back-door answer to that question, that the manner in which we deal with the District of Columbia right now is one in which we strictly apply the mandate in our plan that we do not in any circumstances violate any of the existing laws or regulations of the local jurisdiction. In my own opinion, whether that jurisdiction were a state or the home rule District of Columbia, I don't see where that would be a major problem. I could see that there might be a problem where the plan expressly overrides some local provision, and maybe the state, the newly formed state, might be concerned that that happened and not permit that to happen, and then we would have a problem between our

legislation in either your Admissions Act or your constitution.

But I just don't see that as a problem. In my opinion, I think it would be something that could easily be worked out by mutual agreement once the state came into being.

MS. NAHIKIAN: It might be helpful, if you had time, to give us some sense of where the plan does override local jurisdiction or local laws. That would be helpful for us to know, just so we know what we are dealing with.

I assume that it is in regard to things like height limitation or zoning things is where it overrides this. If you have time, maybe, in responding in writing to ---

MR. REGAN: A general answer to that is, these are not significant in terms of major issues at all; and, in fact, any provisions that we have that differ from local law were basically worked out in the '74-'75 time frame when the plan itself was submitted for review and everybody agreed that this would be a beneficial thing to happen.

So it's not a question of a controversial item, but an item that everybody thought in this particular area, because of its special nature, it should be this way. It happens, for instance, in some areas, in the area of historic

preservation.

I would also say that generally when it does happen, it's the fact that we are more stringent in our requirements than the local regulations are.

MS. NAHIKIAN: You have more stringent requirements regarding historic preservation?

MR. REGAN: We are able--I want to be sure that I don't create a controversy in our ---

MS. NAHIKIAN: I'm not trying to ---

MR. REGAN: It's very difficult, when you put value judgments on--you are more or you are not more--you then compete with the organization that you say you are more stringent than. I am saying that when the Pennsylvania Avenue historic district was formed, it gave us some additional control over what happens within that district, simply because of the nature of the district being a federal nature than the normal D. C. regulations might be able--than the normal requirements that the D. C. agencies might be able to impose. We are able to impose some additional regulations.

MS. NAHIKIAN: Delegate Street?

MS. STREET: Mr. Regan, is the PADC a quasi-government corporation?

MR. REGAN: We are a fully owned government

corporation. We were created by an Act of Congress.

MS. STREET: And the funding is all Congressional funds?

MR. REGAN: Well, we have a mixture of funds in our programs. The public improvements program that I addressed earlier, rebuilding the Avenue and the sidewalks, the parks and plazas, are funds which are entirely appropriated by the United States Congress. The funding for the development of the office buildings and hotels and housing is a mixed--comes from mixed sources. The Corporation has access to Treasury loans in order to assemble land and to prepare those lands for development. However, all of the development itself occurs with private funds, where developers find sources of funding and then do their own development. The Corporation, then, enters into either sale agreements or leases with those developers in order to repay the funds that we would have bought that we would have borrowed from the Treasury.

So the actual development, including all of the professional service--engineering, construction--is private funds; the up-front money that we put into the project for land acquisition and assembly and preparation is public, but that money is repaid either from lease or sale that we